

5101:3-3-05 SKILLED LEVEL OF CARE (SLOC).

- (A) THIS RULE SETS FORTH THE CRITERIA USED TO DETERMINE WHETHER AN INDIVIDUAL WHO IS SEEKING MEDICAID PAYMENT FOR LONG TERM CARE NEEDS SERVICES AT THE SKILLED CARE LEVEL. THE TERM "SKILLED CARE", AS DEFINED AND USED IN THIS RULE, HAS NO RELATIONSHIP TO THE PROVISION OF EITHER SKILLED NURSING SERVICES UNDER THE RULES GOVERNING PRIVATE DUTY NURSING SET FORTH IN CHAPTER 5101:3-8 OF THE ADMINISTRATIVE CODE OR SKILLED CARE AS DEFINED UNDER THE MEDICARE PROGRAM PROVISIONS OF THE SOCIAL SECURITY ACT.
- (B) DEFINITIONS.
- (1) "INDIVIDUAL" HAS THE SAME MEANING AS IN RULE 5101:3-3-15 OF THE ADMINISTRATIVE CODE.
- (2) "INSTABILITY OF THE INDIVIDUAL'S CONDITION" MEANS THAT AN INDIVIDUAL'S CONDITION CHANGES FREQUENTLY AND/OR RAPIDLY, SO THAT CONSTANT MONITORING AND/OR THE FREQUENT ADJUSTMENT OF TREATMENT REGIMENS IS REQUIRED. AN INDIVIDUAL IS CONSIDERED TO HAVE AN UNSTABLE MEDICAL CONDITION IF ONE OF THE FOLLOWING CONDITIONS IS MET:
- (a) THE PHYSICIAN HAS ORDERED THAT THE NURSE OR THERAPIST MONITOR AND EVALUATE THE INDIVIDUAL'S CONDITION ON AN ONGOING BASIS AND MAKE ANY NECESSARY ADJUSTMENTS TO THE TREATMENT REGIMEN, AND THE NURSING OR THERAPIST'S PROGRESS NOTES INDICATE THAT SUCH INTERVENTIONS OR ADJUSTMENTS HAVE BEEN BOTH NECESSARY AND MADE; OR
- (b) THE PHYSICIAN'S ORDERS DEALING WITH THE INDIVIDUAL'S UNSTABLE CONDITION REFLECT THAT CHANGES AND/OR ADJUSTMENTS HAVE BEEN MADE AT LEAST MONTHLY.
- (3) "SKILLED CARE LEVEL" MEANS THAT AN INDIVIDUAL RECEIVES AT LEAST ONE SKILLED NURSING SERVICE AT LEAST SEVEN DAYS PER WEEK, AND/OR A SKILLED REHABILITATION SERVICE AT LEAST FIVE DAYS PER WEEK. FOR THE DELIVERY OF SKILLED SERVICES TO QUALIFY FOR THE SKILLED CARE LEVEL, THE SERVICES MUST BE ORDERED BY A PHYSICIAN, AND MUST BE DELIVERED BY THE LICENSED OR CERTIFIED PROFESSIONAL DUE TO EITHER:
- (a) THE INSTABILITY OF THE INDIVIDUAL'S CONDITION AND THE COMPLEXITY OF THE PRESCRIBED SERVICE; OR

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- (b) THE INSTABILITY OF THE INDIVIDUAL'S CONDITION AND THE PRESENCE OF SPECIAL MEDICAL COMPLICATIONS.
- (4) "SKILLED NURSING SERVICES" ARE THOSE SPECIFIC TASKS WHICH MUST, IN ACCORDANCE WITH CHAPTER 4723. OF THE REVISED CODE, BE DELIVERED BY A LICENSED PRACTICAL NURSE (LPN) UNDER THE SUPERVISION OF A REGISTERED NURSE (RN), OR BY AN RN.
- (5) "SKILLED REHABILITATION SERVICES" ARE THOSE SPECIFIC TASKS WHICH MUST, IN ACCORDANCE WITH TITLE 47 OF THE REVISED CODE, BE DELIVERED DIRECTLY BY LICENSED OR OTHER APPROPRIATELY CERTIFIED TECHNICAL OR PROFESSIONAL HEALTH CARE PERSONNEL.
- (C) AN INDIVIDUAL MAY BE DETERMINED TO REQUIRE A SKILLED LEVEL OF CARE (SLOC) ONLY IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:
 - (1) THE INDIVIDUAL'S PHYSICAL AND MENTAL CONDITION AND RESULTING SERVICE NEEDS HAVE BEEN EVALUATED AND COMPARED TO ALL OF THE POSSIBLE LEVELS OF CARE (IN ACCORDANCE WITH RULE 5101:3-3-15 OF THE ADMINISTRATIVE CODE) AND IT HAS BEEN DETERMINED THAT:
 - (a) THE INDIVIDUAL REQUIRES SERVICES BEYOND THE MINIMUM OF THOSE OF PROTECTIVE CARE (SET FORTH IN RULE 5101:3-3-08 OF THE ADMINISTRATIVE CODE); AND
 - (b) THE INDIVIDUAL REQUIRES SERVICES BEYOND THE MINIMUM OF THOSE OF INTERMEDIATE CARE (SET FORTH IN RULE 5101:3-3-06 OF THE ADMINISTRATIVE CODE); AND/OR
 - (c) THE INDIVIDUAL REQUIRES SERVICES BEYOND THE MINIMUM OF THOSE OF AN ICF-MR/DD LOC (SET FORTH IN RULE 5101:3-3-07 OF THE ADMINISTRATIVE CODE); AND
 - (2) AT LEAST ONE OF THE FOLLOWING APPLIES :
 - (a) THE INDIVIDUAL'S CONDITION NECESSITATES, AND THE INDIVIDUAL'S PHYSICIAN HAS ORDERED, THAT AT LEAST ONE SKILLED NURSING SERVICE (AS DEFINED IN PARAGRAPH (B)(4) OF THIS RULE) BE PROVIDED AT THE SKILLED CARE LEVEL (AS DEFINED IN PARAGRAPH (B)(3) OF THIS RULE);
 - (b) THE INDIVIDUAL'S CONDITION NECESSITATES, AND THE INDIVIDUAL'S PHYSICIAN HAS ORDERED, THAT AT LEAST ONE

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SKILLED REHABILITATION SERVICE (AS DEFINED IN PARAGRAPH (B)(5) OF THIS RULE) BE PROVIDED AT THE SKILLED CARE LEVEL (AS DEFINED IN PARAGRAPH (B)(3) OF THIS RULE); HOWEVER

- (3) AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF PARAGRAPHS (C)(1)(c) AND (C)(2) OF THIS RULE MAY BE DETERMINED TO REQUIRE AN SLOC UNLESS THE INDIVIDUAL HAS APPLIED TO A SPECIFIC ICF-MR THAT IS EQUIPPED TO PROVIDE SERVICES AT THE SKILLED CARE LEVEL (AS DEFINED IN PARAGRAPH (B)(3) OF THIS RULE). AN INDIVIDUAL WHO HAS APPLIED TO AN ICF-MR THAT IS EQUIPPED TO PROVIDE SERVICES AT THE SKILLED CARE LEVEL MAY BE DETERMINED TO REQUIRE AN ICF-MR/DD LOC IF THERE IS WRITTEN CERTIFICATION THAT THE FACILITY CAN MEET THE INDIVIDUAL'S SKILLED CARE NEEDS.

REPLACES RULE 5101:3-3-05

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Certification

Date

Promulgated Under: Revised Code Chapter 119.

Statutory Authority: Revised Code Section 5111.02

Rule Amplifies: Revised Code Sections 5111.01, 5111.02, and 5111.204

Prior effective dates: October 1, 1993 (Emergency), July 1, 1980, 5101:3-3-05 contains provisions of former 5101:3-3-04 (4-7-77) and 5101:3-3-07 (10-14-77); see 5101:3-3-06 for provisions of former 5101:3-3-05 (4-7-77)

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5101:3-3-06 INTERMEDIATE LEVEL OF CARE (ILOC).

(A) THIS RULE SETS FORTH THE CRITERIA USED TO DETERMINE WHETHER AN INDIVIDUAL WHO IS SEEKING MEDICAID PAYMENT FOR LONG TERM CARE SERVICES NEEDS AN INTERMEDIATE LEVEL OF CARE (ILOC) .

(B) DEFINITIONS.

(1) "ACTIVITY OF DAILY LIVING (ADL)" MEANS A PERSONAL OR SELF-CARE SKILL PERFORMED, WITH OR WITHOUT THE USE OF ASSISTIVE DEVICES, ON A REGULAR BASIS THAT ENABLES THE INDIVIDUAL TO MEET BASIC LIFE NEEDS FOR FOOD, HYGIENE, AND APPEARANCE. FOR PURPOSES OF THIS RULE, THE TERM "ADL" MAY REFER TO ANY OF THE FOLLOWING :

(a) "MOBILITY" IS THE ABILITY TO USE FINE AND GROSS MOTOR SKILLS TO REPOSITION OR MOVE ONESELF FROM PLACE TO PLACE, WITH OR WITHOUT THE USE OF ASSISTIVE DEVICES. MOBILITY INCLUDES ALL OF THE FOLLOWING:

(i) "BED MOBILITY," THE ABILITY TO MOVE TO AND/OR FROM A LYING POSITION, TURN FROM SIDE TO SIDE, OR OTHERWISE POSITION THE BODY WHILE IN BED;

(ii) "TRANSFER," THE ABILITY TO MOVE BETWEEN SURFACES (E.G. TO/FROM BED, CHAIR , WHEELCHAIR, STANDING POSITION, ETC.); OR

(iii) "LOCOMOTION," THE ABILITY TO MOVE BETWEEN LOCATIONS BY AMBULATION OR BY OTHER MEANS.

(b) "BATHING" IS THE ABILITY TO CLEANSE ONE'S BODY BY SHOWERING, TUB OR SPONGE BATH, OR ANY OTHER GENERALLY ACCEPTED METHOD, AND MAY BE PERFORMED WITH OR WITHOUT THE USE OF ASSISTIVE DEVICES.

(c) "GROOMING" IS THE ABILITY TO PERFORM THE TASKS ASSOCIATED WITH ORAL HYGIENE, HAIR CARE, AND NAIL CARE.

(d) "TOILETING" IS THE ABILITY TO APPROPRIATELY ELIMINATE AND DISPOSE OF BODILY WASTE, WITH OR WITHOUT THE USE OF ASSISTIVE DEVICES OR APPLIANCES. TOILETING MAY INCLUDE THE USE OF A COMMODE, BEDPAN, OR URINAL, THE ABILITY TO CHANGE AN ABSORBENT PAD, AND TO APPROPRIATELY CLEANSE THE PERINEUM; AND/OR THE ABILITY TO MANAGE AN OSTOMY OR CATHETER.

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- (e) "DRESSING" IS THE ABILITY TO PUT ON, FASTEN, AND TAKE OFF ALL ITEMS OF CLOTHING, INCLUDING THE DRESSING AND/OR REMOVAL OF PROSTHESES;
- (f) "EATING" IS THE ABILITY TO FEED ONESELF. EATING INCLUDES THE PROCESSES OF GETTING FOOD INTO ONE'S MOUTH, CHEWING, AND SWALLOWING, AND/OR THE ABILITY TO USE AND SELF-MANAGE A FEEDING TUBE.
- (2) "ASSISTANCE" MEANS THE HANDS-ON PROVISION OF HELP IN THE INITIATION AND/OR COMPLETION OF A TASK.
- (3) "INDIVIDUAL" HAS THE SAME MEANING AS IN RULE 5101:3-3-15 OF THE ADMINISTRATIVE CODE.
- (4) "MEDICATION ADMINISTRATION" MEANS THE ABILITY TO PREPARE AND SELF-ADMINISTER ALL FORMS OF OVER THE COUNTER AND PRESCRIPTION MEDICATION.
- (5) "SUPERVISION" MEANS EITHER OF THE FOLLOWING:
 - (a) REMINDING AN INDIVIDUAL TO PERFORM OR COMPLETE AN ACTIVITY; OR
 - (b) OBSERVING WHILE AN INDIVIDUAL PERFORMS AN ACTIVITY TO ENSURE THE INDIVIDUAL'S HEALTH AND SAFETY.
- (C) AN INDIVIDUAL MAY BE DETERMINED TO REQUIRE AN INTERMEDIATE LEVEL OF CARE (ILOC) ONLY IF BOTH OF THE FOLLOWING CONDITIONS ARE MET:
 - (1) THE INDIVIDUAL'S PHYSICAL AND MENTAL CONDITION AND RESULTING SERVICE NEEDS HAVE BEEN EVALUATED AND COMPARED TO ALL OF THE POSSIBLE LEVELS OF CARE (IN ACCORDANCE WITH RULE 5101:3-3-15 OF THE ADMINISTRATIVE CODE) AND IT HAS BEEN DETERMINED THAT:
 - (a) THE INDIVIDUAL REQUIRES SERVICES BEYOND THE MINIMUM REQUIRED FOR A PROTECTIVE LEVEL OF CARE (SET FORTH IN RULE 5101:3-3-08 OF THE ADMINISTRATIVE CODE); BUT,
 - (b) THE INDIVIDUAL'S CONDITION AND/OR CORRESPONDING SERVICE NEEDS DO NOT MEET THE MINIMUM CRITERIA FOR A SKILLED LEVEL OF CARE SET FORTH IN RULE 5101:3-3-05 OF THE ADMINISTRATIVE CODE; AND,
 - (c) THE INDIVIDUAL'S CONDITION AND/OR SERVICE NEEDS DO NOT MEET THE CRITERIA FOR AN ICE-MR/DD LOC SET FORTH IN RULE 5101:3-3-07 OF THE ADMINISTRATIVE CODE; AND

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(2) AT LEAST ONE OF THE FOLLOWING APPLIES:

- (a) THE INDIVIDUAL REQUIRES HANDS-ON ASSISTANCE WITH THE COMPLETION OF AT LEAST TWO ACTIVITIES OF DAILY LIVING;
- (b) THE INDIVIDUAL REQUIRES HANDS-ON ASSISTANCE WITH THE COMPLETION OF AT LEAST ONE ACTIVITY OF DAILY LIVING; AND IS UNABLE TO PERFORM SELF-ADMINISTRATION OF MEDICATION AND REQUIRES THAT MEDICATION ADMINISTRATION BE PERFORMED BY ANOTHER PERSON;
- (c) THE INDIVIDUAL REQUIRES ONE OR MORE SKILLED NURSING OR SKILLED REHABILITATION SERVICES (AS DEFINED IN PARAGRAPHS (B)(4) AND (B)(5) OF RULE 5101:3-3-05 OF THE ADMINISTRATIVE CODE) AT LESS THAN A SKILLED CARE LEVEL (AS DEFINED IN PARAGRAPH (B)(3) OF RULE 5101:3-3-05 OF THE ADMINISTRATIVE CODE); OR
- (d) DUE TO A COGNITIVE IMPAIRMENT, INCLUDING BUT NOT LIMITED TO DEMENTIA (AS DEFINED IN RULE 5101:3-3-151 OF THE ADMINISTRATIVE CODE), THE INDIVIDUAL REQUIRES THE PRESENCE OF ANOTHER PERSON, ON A TWENTY-FOUR-HOUR-A-DAY BASIS FOR THE PURPOSE OF SUPERVISION TO PREVENT HARM.

REPLACES RULE 5101:3-3-06

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Date

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5101:3-3-07 MR/DD LEVEL OF CARE.

A RESIDENT IS DEEMED TO REQUIRE ICF-MR/DD LEVEL OF CARE WHEN THE RESIDENT HAS BEEN IDENTIFIED AS MENTALLY RETARDED OR DEVELOPMENTALLY DISABLED AS DEFINED BELOW AND WHEN THE RESIDENT HAS ONGOING MEDICAL NEEDS WHICH DO NOT RESULT IN A SKILLED LEVEL OF CARE AS DEFINED IN RULE 5101:3-3-05 OF THE ADMINISTRATIVE CODE.

- (A) "MENTAL RETARDATION" MEANS SIGNIFICANTLY SUBAVERAGE GENERAL INTELLECTUAL FUNCTIONING EXISTING CONCURRENTLY WITH DEFICIENCIES IN ADAPTIVE BEHAVIOR AND MANIFESTED DURING THE DEVELOPMENTAL PERIOD.
- (B) "DEVELOPMENTAL DISABILITY" MEANS A DISABILITY OF A PERSON WHICH:
 - (1) INCLUDES ONE OF THE FOLLOWING:
 - (a) IS ATTRIBUTABLE TO CEREBRAL PALSY, EPILEPSY, OR AUTISM; OR
 - (b) IS ATTRIBUTABLE TO ANY OTHER CONDITION FOUND TO BE CLOSELY RELATED TO MENTAL RETARDATION BECAUSE SUCH CONDITION RESULTS IN IMPAIRMENT OF GENERAL INTELLECTUAL FUNCTIONING OR ADAPTIVE BEHAVIOR SIMILAR TO THAT OF MENTALLY RETARDED PERSONS OR REQUIRES TREATMENT AND SERVICES SIMILAR TO THOSE REQUIRED FOR SUCH PERSONS.
 - (c) IS ATTRIBUTABLE TO DYSLEXIA RESULTING FROM A DISABILITY DESCRIBED IN THIS RULE.
 - (2) INCLUDES ALL OF THE FOLLOWING:
 - (a) ORIGINATES BEFORE SUCH PERSON ATTAINS AGE EIGHTEEN;
 - (b) HAS CONTINUED OR CAN BE EXPECTED TO CONTINUE INDEFINITELY; AND
 - (c) RESULTS IN SUBSTANTIAL FUNCTIONAL LIMITATIONS IN TWO OR MORE OF THE FOLLOWING AREAS OF ADAPTIVE BEHAVIOR WHEN THE LIMITATIONS ARE COMMENSURATE WITH THOSE OF AN INDIVIDUAL DIAGNOSED AS MODERATELY, SEVERELY, OR PROFOUNDLY MENTALLY RETARDED. "ADAPTIVE BEHAVIOR" IS THE EFFECTIVENESS OR DEGREE WITH WHICH THE INDIVIDUAL MEETS THE STANDARDS OF PERSONAL INDEPENDENCE AND SOCIAL RESPONSIBILITY EXPECTED OF HIS AGE AND CULTURAL GROUP IN EACH OF THE FOLLOWING AREAS: AUG 15 97

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- (i) SELF-CARE (DAILY ACTIVITIES ENABLING A PERSON TO MEET BASIC LIFE NEEDS FOR FOOD, HYGIENE, AND APPEARANCE);
 - (ii) UNDERSTANDING AND USE OF LANGUAGE (COMMUNICATION INVOLVING VERBAL AND NONVERBAL BEHAVIOR ENABLING A PERSON BOTH TO UNDERSTAND AND TO EXPRESS IDEAS AND INFORMATION TO OTHERS);
 - (iii) LEARNING (GENERAL COGNITIVE COMPETENCE AND ABILITY TO ACQUIRE NEW BEHAVIORS, PERCEPTIONS, AND INFORMATION; ABILITY TO APPLY EXPERIENCES TO NEW SITUATIONS);
 - (iv) MOBILITY (ABILITY TO USE FINE AND GROSS MOTOR SKILLS; ABILITY TO MOVE ONE'S PERSON FROM ONE PLACE TO ANOTHER WITH OR WITHOUT MECHANICAL AIDS);
 - (v) SELF-DIRECTION (MANAGEMENT AND TAKING CONTROL OF ONE'S SOCIAL AND PERSONAL LIFE; ABILITY TO MAKE DECISIONS AFFECTING AND PROTECTING ONE'S SELF-INTEREST);
 - (vi) CAPACITY FOR INDEPENDENT LIVING (AGE-APPROPRIATE ABILITY TO LIVE WITHOUT EXTRAORDINARY ASSISTANCE).
- (c) IN UNUSUAL INDIVIDUAL SITUATIONS, AN OTHERWISE ICF-MR/DD LEVEL OF CARE RECIPIENT MAY BE DETERMINED ICF BY THE DEPARTMENTAL UTILIZATION REVIEW COMMITTEE CONSIDERING THE FOLLOWING FACTORS:
- (1) AGE.
 - (2) ADAPTATION TO CURRENT LIVING ARRANGEMENTS.
 - (3) EVALUATION BY QUALIFIED MENTAL RETARDATION PROFESSIONAL OR PHYSICIAN OF NEED FOR AND POTENTIAL RESPONSE TO ACTIVE TREATMENT.
 - (4) MEDICAL NEEDS.
 - (5) FUNCTIONAL LEVEL AND FUNCTIONAL LIMITATIONS.

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[Signature]
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5101:3-3-15 IN-PERSON ASSESSMENTS AND LEVEL OF CARE REVIEW
PROCESS FOR MEDICAID COVERED LONG TERM CARE
SERVICES.

- (A) THE PURPOSE OF THIS RULE IS TO SET FORTH THE IN-PERSON ASSESSMENT PROCESS AND LEVEL OF CARE REVIEW PROCESS FOR INDIVIDUALS WHO ARE SEEKING MEDICAID PAYMENT FOR LONG TERM CARE SERVICES.

"LEVEL OF CARE REVIEW", AS USED IN THIS RULE, IS A DETERMINATION OF AN INDIVIDUAL'S PHYSICAL, MENTAL AND SOCIAL/EMOTIONAL STATUS TO DETERMINE WHETHER THE INDIVIDUAL REQUIRES EITHER AN INTERMEDIATE LEVEL OF CARE, OR SKILLED LEVEL OF CARE. THE LEVEL OF CARE (LOC) SHALL BE DETERMINED AS A RESULT OF AN IN-PERSON ASSESSMENT CONDUCTED BY THE OHIO DEPARTMENT OF HUMAN SERVICES (ODHS), OR ITS DESIGNEE, IF AN IN-PERSON ASSESSMENT IS REQUIRED OR REQUESTED PRIOR TO ADMISSION TO A MEDICAID CERTIFIED NURSING FACILITY, OR BY A PAPER REVIEW PROCESS FOR THOSE INDIVIDUALS FOR WHOM AN IN-PERSON ASSESSMENT IS NOT REQUIRED OR REQUESTED PRIOR TO ADMISSION TO A MEDICAID CERTIFIED NURSING FACILITY. LEVEL OF CARE REVIEW IS CONDUCTED PURSUANT TO PARAGRAPH 1902 (a)(30(A) OF THE SOCIAL SECURITY ACT AND INCLUDES THOSE ACTIVITIES NECESSARY TO SAFEGUARD AGAINST UNNECESSARY UTILIZATION. "NE SERVICES" ARE THOSE SERVICES AVAILABLE IN FACILITIES, OR PARTS OF FACILITIES, CERTIFIED AS NURSING FACILITIES BY THE OHIO DEPARTMENT OF HEALTH. INDIVIDUALS WHO ARE DETERMINED TO REQUIRE AN INTERMEDIATE LOC OR SKILLED LOC MAY BE APPROPRIATE FOR ADMISSION TO A NE. THE LOC PROCESS IS ALSO THE MECHANISM BY WHICH VENDOR PAYMENT TO A NE IS INITIATED. SOME INDIVIDUALS MUST ALSO UNDERGO PREADMISSION SCREENING (PAS) AS OUTLINED IN RULE 5101:3-3-151 OF THE ADMINISTRATIVE CODE.

THE EVALUATION OF AN INDIVIDUAL'S LOC NEEDS DETERMINES THE FACILITY TYPE FOR WHICH MEDICAID VENDOR PAYMENT CAN BE MADE. AN INTERMEDIATE LOC OR SKILLED LOC IS NECESSARY FOR NE ADMISSION. EXCEPT AS PROVIDED FOR IN PARAGRAPH (G) OF THIS RULE, MEDICAID VENDOR PAYMENT CAN BE INITIATED TO A NE ONLY WHEN THE INDIVIDUAL'S LOC DETERMINATION IS INTERMEDIATE LOC OR SKILLED LOC. THE TERM "SKILLED LEVEL OF CARE", AS USED IN THIS RULE, HAS NO RELATIONSHIP TO THE PROVISION OF EITHER SKILLED NURSING SERVICES UNDER THE RULES GOVERNING PRIVATE DUTY NURSING SET FORTH IN CHAPTER 5101:3-8 OF THE ADMINISTRATIVE CODE, OR SKILLED CARE AS DEFINED UNDER THE MEDICARE PROGRAM PROVISIONS OF THE

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